

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 1. ATTORNEY GENERAL

**CHAPTER 12. CALIFORNIA RESTRAINING AND PROTECTIVE
ORDER SYSTEM**

TEXT OF PROPOSED REGULATIONS

Article 2. Chapter Definitions

§ 962. Definitions.

(a) “Affiliated” means that a person is an employee of a Nonprofit Bona Fide Research Institution, and is not a consultant or independent contractor for a Nonprofit Bona Fide Research Institution.

(b) “Aggregated Data” means data that does not include Personal Identifying Information (PII) and is presented in summary counts and full calendar year increments to mitigate privacy risks and attempts at re-identification.

(c) “Bona Fide Research” means research that is characterized by all of the following qualities:

- (1) The identification, evaluation, or resolution of a problem in a research field.
- (2) The intent to contribute to the knowledge of a research field.
- (3) The utilization of scientific methods and research methodologies.
- (4) The reasonable expectation that the final research product may support publication in a peer-reviewed journal, program evaluation and quality improvement, or policy development.

(d) “Bona Fide Researcher” means a researcher who conducts Bona Fide Research and meets all of the following requirements:

- (1) Possesses a Master of Science degree, Master of Arts degree, other master’s degree, or higher-level degree in a field that conducts research. These fields include, but are not limited to, physical sciences, life sciences, social sciences, and medical sciences.
- (2) Is Affiliated with a Nonprofit Bona Fide Research Institution for Research Purposes.
- (3) Has research experience at an accredited university, college, or research organization.

(e) “CARPOS” means the California Restraining and Protective Order System.

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(f) “Data Request Standard Application” means the application developed by the Research Center to obtain approval to receive CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data, which includes the information described in section 966 of these regulations.

(g) “Department” means the Department of Justice of the State of California.

(h) “De-Identified Individual-Level Data” means data, at the individual level, that does not include any PII.

(i) “Entity” means any entity or person that is not a Nonprofit Bona Fide Research Institution, or Bona Fide Researcher.

(j) “Identified Individual-Level Data” means data, at the individual level, that includes the PII of any individual to which the data relates.

(k) “Nonprofit Bona Fide Research Institution” means an organization that employs a Bona Fide Researcher and that is characterized by all of the following qualities:

(1) Is exempt from income tax under title 26 United States Code section 501, subdivision (a) or (c)(3).

(2) Has the primary function of presenting formal instruction.

(3) Maintains a regular faculty and curriculum.

(4) Has regularly enrolled students who attend classes and other educational activities offered by the organization.

(5) Is a degree-granting college or university accredited by the United States Department of Education or Council for Higher Education Accreditation.

(l) “Personal Identifying Information” or “PII” has the meaning set forth in Penal Code section 530.55, subdivision (b).

(m) “Peer Review” means subjecting a researcher’s scholarly work, research, or ideas to the scrutiny of other researchers in the same field of research for the all of following purposes:

(1) To ensure that the scholarly work meets the accepted standards of the researcher’s discipline.

(2) To prevent the dissemination of research that is compromised by unwarranted claims, unacceptable interpretations, or personal views.

(n) “Research Center” means the Department of Justice Research Center that processes data requests from internal and external requestors.

(o) “Research Purposes” means analysis of data to conduct a systematic investigation, including research development, testing, or evaluation, which is designed to develop or contribute to general knowledge or education.

(p) “Statistical Purposes” means statistical analysis of data to summarize and describe a population or subpopulation.

(q) “Study of the Prevention of Violence” means Bona Fide Research into violence that addresses any of the following:

(1) The nature of the violence, including individual and societal determinants of risk for involvement in violence, whether as a victim or a perpetrator.

(2) The individual, community, and societal consequences of violence.

(3) The prevention and treatment of violence at the individual, community, and societal level.

(4) The scientific evidence on which sound violence prevention policies and programs can be based, including but not limited to, the effectiveness of existing laws and policies intended to reduce violence.

(r) “Team Member” means any individual identified in the Data Request Standard Application, who has been authorized by the Research Center to access or analyze data obtained by a Bona Fide Researcher.

Note: Authority cited: Sections 14231.5 and 14240, Penal Code. Reference: Sections 13125, 13202, 14231.5 and 14240, Penal Code.

Article 3. Access and Use

§ 963. Eligibility for Access to Data.

(a) A Bona Fide Researcher from a Nonprofit Bona Fide Research Institution is eligible to obtain all of the following information and data that is maintained in CARPOS:

(1) Aggregated Data.

(2) De-Identified Individual-Level Data, pursuant to the requirements in section 966 regarding the procedures for requesting CARPOS De-Identified Individual-Level Data.

(3) Identified Individual-Level Data, pursuant to the requirements in section 966

regarding the procedures for requesting CARPOS Identified Individual-Level Data.

(b) Entities are limited to obtaining Aggregated Data.

Note: Authority cited: Sections 14231.5 and 14240, Penal Code. Reference: Sections 14231.5 and 14240, Penal Code.

§ 964. Restrictions on Use or Disclosure of CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data.

(a) A Nonprofit Bona Fide Research Institution, Bona Fide Researcher, or Team Member may only use CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data as specified in the Data Request Standard Application, and as outlined in this section.

(b) For De-Identified Individual-Level Data or Identified Individual-Level Data, a Bona Fide Researcher from a Nonprofit Bona Fide Research Institution shall only obtain CARPOS data during the timeframe defined in the Bona Fide Researcher's Data Request Standard Application.

(c) A Nonprofit Bona Fide Research Institution, Bona Fide Researcher, or Team Member shall not transfer, disclose, or disseminate CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data to any third party, unless approved in the Data Request Standard Application or in writing by the Research Center, and the purpose and transfer, disclosure, or dissemination is authorized by statute or court order. The Research Center shall respond to any request for any transfer, disclosure, or dissemination under this subdivision within 10 business days, and shall either approve it, deny it, or state whether approval depends on any other requirements consistent with these regulations, such as a background check.

(d) A Nonprofit Bona Fide Research Institution, Bona Fide Researcher, or Team Member shall aggregate CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data before it is published, disseminated, disclosed, or released to ensure that it does not create a risk of identifying individuals.

(e) A Nonprofit Bona Fide Research Institution, Bona Fide Researcher, or Team Member shall not publish, disseminate, disclose, or release CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data or documents received from the Research Center in any form if there is a reasonable possibility that an individual can be directly or indirectly

identified from the information released, unless approved in writing by the Research Center.

(f) Data is considered to have a reasonable possibility of directly or indirectly identifying an individual, if it includes:

(1) Any of the following identifying information:

(A) Name of Respondent or Petitioner.

(B) Federal Bureau of Investigations (FBI) Number or Universal Control Number.

(C) California Identification and Index Number.

(D) Driver's License Number.

(E) Any other PII, either alone or in combination with other factors, including geographic or county-level information, that creates a risk of indirectly identifying that individual.

(2) Rates, frequencies, other tabulations, or combined factors, including geographic information (other than state and county-level information) and social stratification information (e.g., gender, race, economics), which will result in a category with fewer than 10 individuals.

(g) At least 10 business days before any publication or dissemination of any report, evaluation, or other document that uses or relies on CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data, a Bona Fide Researcher shall provide to the Research Center a complete draft of any report, evaluation, or other document. Within 10 business days of receiving the draft, the Research Center shall review and comment on any draft report, evaluation, or other document, to ensure protection of confidentiality and to confirm that CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data obtained in accordance with this section is used for the project's purpose that was identified in the Data Request Standard Application and approved by the Research Center.

(1) If the Research Center determines that any publication, dissemination, disclosure, or release of CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data or analyses could compromise the identity of any individual, the Research Center shall notify the Bona Fide Researcher in writing within 10 business days of receiving the draft. The Nonprofit Bona Fide Research Institution, Bona Fide Researcher, or Team Member shall not publish, disseminate, disclose, or release the

report, evaluation, or other document containing any CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data or analyses without first removing the data or analyses that could compromise the identity of any individual.

(2) If the Research Center determines that any CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data was not used for the purposes for which it was requested, but the use would be a permitted purpose under these regulations, the Research Center shall require the Bona Fide Researcher to submit a new or revised Data Request Standard Application. A new Data Request Standard Application shall be required when the purpose is not reasonably related to the purpose originally stated in the Data Request Standard Application. A revised Data Request Standard Application shall be required when the purpose reasonably relates to the purpose originally stated in the Data Request Standard Application. Any required new or revised Data Request Standard Application will be subject to review and approval in accordance with these regulations.

(3) Once the Research Center has completed its review and submitted its comments, the Bona Fide Researcher shall ensure that all subsequent revisions to the report, evaluation, or other document do not create a risk of identifying individuals or otherwise violate the conditions of release.

(h) A Nonprofit Bona Fide Research Institution or Bona Fide Researcher may appeal any determination by the Research Center that (1) the Nonprofit Bona Fide Research Institution or Bona Fide Researcher is not permitted to transfer, disclose, or disseminate CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data, (2) any publication, dissemination, disclosure, or release of CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data or analyses could compromise the identity of any individual, or (3) that the CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data obtained in accordance with this section was not used for the purposes for which it was requested.

(1) Any appeal shall be filed with the Chief of the California Justice Information Services (CJIS) Division within 10 calendar days of receiving the Research Center's findings. The appeal shall be filed at datarequests@doj.ca.gov.

(2) The Chief of the CJIS Division may serve as the appeal officer, or may appoint

another designee. At their sole discretion, the appeal officer reserves the right to collect additional facts or information to aid in the resolution of any appeal, and to set the timeline for any additional collection of facts.

(3) The appeal officer may request other entities, that may have relevant information or evidence that would assist in making the decision, that may be impacted by the decision, and/or that may be affiliated with the Department of Justice, Nonprofit Bona Fide Research Institution, Bona Fide Researcher, including but not limited to, the Research Center, to submit a written response to the appeal request, and has discretion to set the deadlines for any additional written responses.

(4) The decision of the appeal officer shall be based on all relevant statutory authority and these regulations, all facts and evidence, including but not limited to, the Research Center's denial and facts supporting the denial, the appeal, any other written responses, any additional facts or information collected, the underlying Data Request Standard Application, and any other documents submitted by the Nonprofit Bona Fide Research Institution or Bona Fide Researcher related to the Data Request Standard Application, including but not limited to, any publication. The decision of the appeal officer shall consider the relevant statutory authority, these regulations, and the balance of harms to the Nonprofit Bona Fide Research Institution or Bona Fide Researcher and the public.

(5) The appeal officer shall render a decision in writing within 30 calendar days of receiving the appeal.

(6) The decision of the appeal officer shall be final and there will be no further administrative appeal.

(i) A Nonprofit Bona Fide Research Institution, Bona Fide Researcher, Team Member, or Entity, shall not sell any CARPOS Aggregated Data, De-Identified Individual-Level Data, or Identified Individual-Level Data. This prohibition does not apply to any report, evaluation, or other document that uses or relies on Aggregated Data, CARPOS De-Identified Individual-Level Data, or Identified Individual-Level Data.

(j) A Nonprofit Bona Fide Research Institution, Bona Fide Researcher, or Team Member shall not disclose or transfer CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data in a legal proceeding or in response to a subpoena in the absence of a

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court order. A Nonprofit Bona Fide Research Institution, Bona Fide Researcher, or Team Member shall give immediate notice to the Research Center of any subpoena or other legal proceeding in which the disclosure or transfer of CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data is requested.

(k) The Nonprofit Bona Fide Research Institution, Bona Fide Researcher, and Team Member shall protect the confidentiality and security of CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data, shall ensure that the system or network containing CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data is secure and segmented from other applications, shall limit access to the system or network to authorized persons identified in the Data Request Standard Application, and shall take the following actions in the event of a security breach:

(1) Immediately notify the Research Center of a breach in the security of the system or network.

(2) Submit a notification letter to the Department for publication on the Department's public website of any security breach affecting the PII of 500 individuals or more.

(3) The Nonprofit Bona Fide Research Institution and/or Bona Fide Researcher shall reimburse the Department for any losses or expenses resulting from the security breach, such as expenses related to credit monitoring for individuals whose data was exposed by the security breach.

(l) A Nonprofit Bona Fide Research Institution or Bona Fide Researcher shall notify the Research Center, within 30 days of when the project, as specified in the applicable Data Request Standard Application, has been completed. All restrictions imposed in this section regarding use or disclosure of CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data survive the completion of the project.

(m) A Team Member is limited to accessing or analyzing data obtained by a Bona Fide Researcher only for the purposes specified in the Data Request Standard Application.

Note: Authority cited: Sections 13202, 14231.5 and 14240, Penal Code. Reference: Sections 13125, 13202, 14231.5 and 14240, Penal Code; Section 1798.21, Civil Code.

§ 965. Procedures for Requesting CARPOS Aggregated Data.

(a) A Bona Fide Researcher or an Entity requesting CARPOS Aggregated Data shall submit a request to the Department by following the public records request process on the Attorney General's website.

(b) Requests for CARPOS Aggregated Data shall include the complete calendar year or years for the CARPOS Aggregated Data.

(c) Upon approval, the Department shall securely transfer the requested Aggregated Data to the requestor.

Note: Authority cited: Sections 14231.5 and 14240, Penal Code. Reference: Sections 13202, 14231.5 and 14240, Penal Code.

§ 966. Procedures for Requesting CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data.

(a) A Bona Fide Researcher shall electronically submit a completed Data Request Standard Application to the Research Center by following the data request process on the Attorney General's website.

(b) To complete the Data Request Standard Application a Bona Fide Researcher shall provide all of the following information on the Data Request Standard Application form:

(1) Designation as a new request or a modified request. If the request is to modify an existing request, include the project number assigned to the existing request.

(2) Date of request.

(3) Name and position title of the Bona Fide Researcher.

(4) Bona Fide Researcher's address, city, state, and postal code which is connected to the Nonprofit Bona Fide Research Institution with which the Bona Fide Researcher is Affiliated.

(5) Bona Fide Researcher's phone number and email address which is connected to the Nonprofit Bona Fide Research Institution with which the Bona Fide Researcher is Affiliated.

(6) Name of the Nonprofit Bona Fide Research Institution with which the Bona Fide Researcher is Affiliated.

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- (7) Name, phone number, and email address of the Nonprofit Bona Fide Research Institution's information security officer or Information Technology (IT) manager.
- (8) Project title.
- (9) Date of anticipated completion of the project or the report.
- (10) List of information for each Team Member that includes all of the following:
- (A) Name of the Team Member.
 - (B) The physical location from which the Team Member will access CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data.
 - (C) Whether the Team Member is part of the data analysis team.
 - (D) Whether the Team Member is part of the IT team.
- (11) Signature of the Bona Fide Researcher, and date of signature of the Bona Fide Researcher.
- (12) Completed Data Request Standard Application checklist that includes all of the following:
- (A) Project outline that describes all of the following:
 - (i) The purposes and objectives of the project or report.
 - (ii) Specifically, how the requested data, especially Identified Individual-Level Data and PII, is required and will be used to support the project's Peer Review purposes, Research Purposes, Statistical Purposes, and/or the Study of the Prevention of Violence.
 - (iii) The expected benefits of the project.
 - (iv) If applicable, (1) the funding source of the project or report, including whether the funding source is a public or private grant, (2) the grant period, and (3) the grant expiration date.
 - (v) Proposed project design and methodology, including, (1) where the data analysis will be conducted, and (2) a detailed description of how the requested CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data will be used and analyzed.
 - (vi) Information pertaining to the applicant's project approval process, including review and approval by an institutional review board.
 - (B) Curriculum vitae of the Bona Fide Researcher.

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(C) Signature of the Bona Fide Researcher, and the date of signature of the Bona Fide Researcher, acknowledging the restrictions on use or disclosure of CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data, as specified in section 964.

(D) A signed document, which includes the following provisions:

(i) The name, signature, and date of signature, of the Nonprofit Bona Fide Research Institution's information security officer or IT manager.

(ii) A certification that security controls are in place to meet the requirements of the United States Department of Justice, Criminal Justice Information Services (CJIS) Security Policy, Version 5.9, dated June 1, 2020, United States Department of Justice, CJIS Requirements Companion Document to the FBI CJIS Security Policy Version 5.9, dated June 1, 2020, and the FBI CJIS Appendix A Cloud Control Catalog, which are hereby incorporated by reference.

(iii) A certification that if data storage will be in a data server maintained by a cloud provider, the data storage must have undergone either (a) a Systems and Organization (SOC) 2 audit or (b) a Federal Risk and Authorization Management Program (FedRAMP) certification.

(E) Any relevant research materials, including, but not limited to proposals, endorsements, and questionnaires.

(F) A copy of the approval by an institutional review board or human subjects committee (including the documentation submitted as part of the approval process and the application number and expiration date), demonstrating that the institutional review board or human subjects committee considered relevant federal and state laws governing human research.

(c) The Data Request Standard Application shall include written verification of formal approval of the research project by the applicant's institutional review board or human subjects committee, or by the Committee for the Protection of Human Subjects pursuant to Civil Code section 1798.24, subdivision (t).

(1) If a Bona Fide Researcher chooses to obtain approval from the Committee

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for the Protection of Human Subjects, in accordance with Civil Code section 1798.24, subdivision (t), the Bona Fide Researcher may first submit its application to the Research Center. The Research Center may provide written documentation to the Bona Fide Researcher to allow the Committee for the Protection of Human Subjects to review the Bona Fide Researcher's application. The Bona Fide Researcher must provide written verification to the Research Center of formal approvals by the Committee for the Protection of Human Subjects or the Bona Fide Researcher's institutional review board, if operating under a written agreement under Civil Code section 1798.24, subdivision (t), before receiving the CARPOS data. The written verification must include the review and determination by the Committee for the Protection of Human Subjects or the Bona Fide Researcher's institutional review board, if operating under a written agreement under Civil Code section 1798.24, subdivision (t), that the data security approvals required by Civil Code section 1798.24, subdivision (t), have been satisfied.

(d) The Bona Fide Researcher shall provide written verification to the Research Center on official letterhead and signed by an authorized official, verifying that the Bona Fide Researcher is Affiliated with the Nonprofit Bona Fide Research Institution.

(e) The Bona Fide Researcher shall submit the certificates demonstrating that the Bona Fide Researcher and all Team Members have received human subject protection and ethics training.

(f) In cases of requests for CARPOS Identified Individual-Level Data, the Bona Fide Researcher and Team Members shall complete and pass a background check before the release of, and access to, the CARPOS Identified Individual-Level Data. Bona Fide Researchers shall verify that their Team Members have completed and passed a background check before accessing CARPOS Identified Individual-Level Data.

(g) If a Data Request Standard Application is denied, then within 10 business days of the denial the Research Center will provide a written statement of specific reasons for denial to the Bona Fide Researcher.

(h) If a Data Request Standard Application is approved, the Bona Fide Researcher may submit a request for a letter of support for research to datarequests@doj.ca.gov.

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Within 30 business days of the request, the Research Center will send to the Bona Fide Researcher either the requested letter of support, or a written statement of specific reasons for denying the letter of support.

(i) A Bona Fide Researcher may appeal the denial of a Data Request Standard Application, the failure to pass a background check, or the denial of a letter of support as described below:

(1) Any appeal shall be filed with the Chief of the CJIS Division within 10 calendar days of notice of denial or failure to pass the background check. The appeal shall be filed at datarequests@doj.ca.gov.

(2) The Chief of the CJIS Division may serve as the appeal officer, or may appoint another designee. At their sole discretion, the appeal officer reserves the right to collect additional facts or information to aid in the resolution of any appeal, and to set the timeline for any additional collection of facts.

(3) The appeal officer may request other entities, that may have relevant information or evidence that would assist in making the decision, that may be impacted by the decision, and/or that may be affiliated with the Department of Justice, Nonprofit Bona Fide Research Institution, Bona Fide Researcher, including but not limited to, the Research Center, to submit a written response to the appeal request, and has discretion to set the deadlines for any additional written responses.

(4) The decision of the appeal officer shall be based on all relevant statutory authority and these regulations, all facts and evidence, including, but not limited to, the Research Center's denial and any written statement in support of the denial, the appeal, any other written responses, any additional facts or information collected, the underlying Data Request Standard Application, and any other documents submitted by the Nonprofit Bona Fide Research Institution or Bona Fide Researcher related to the Data Request Standard Application. The decision of the appeal officer shall consider the relevant statutory authority, these regulations, and the balance of harms to the Nonprofit Bona Fide Research Institution or Bona Fide Researcher and the public.

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(5) The appeal officer shall render a decision in writing within 30 calendar days of receiving the appeal.

(6) The decision of the appeal officer shall be final and there will be no further administrative appeal.

(j) Ninety (90) days before the expiration date, the Research Center shall notify the Bona Fide Researcher to submit a project renewal request. The Bona Fide Researcher shall complete the project renewal process before the expiration date of the project. A project renewal request shall be submitted in writing on official letterhead to the Research Center and include all of the following information:

(1) Any changes in personnel and updated contact information, including removal or addition of the Bona Fide Researcher or Team Members.

(2) Any changes in the details of the project.

(3) Any technology changes, including software or hardware changes to the computers or servers used for the project.

(4) Any changes to the location where the CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data is stored or accessed.

(5) Any changes to the security protocols used to prevent unauthorized access to CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data.

(6) If applicable, any changes or updates in the approval of the institutional review board or human subjects committee approval (including all documentation submitted as part of the approval process, the application number and expiration date).

Note: Authority cited: Sections 13202, 14231.5 and 14240, Penal Code. Reference: Sections 13125, 13202, 14231.5 and 14240, Penal Code; Sections 1798.21 and 1798.24, Civil Code.

Article 4. Destruction of Data

§ 967. Procedures for Destruction of CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data.

(a) Except as provided in subdivision (b), when a Bona Fide Researcher has concluded a

project and notifies the Research Center of the project's completion in accordance with section 964, subdivision (l), the Bona Fide Researcher shall also simultaneously submit to the Research Center, in writing, a signed and dated certificate of data destruction confirming all of the following:

- (1) The project title and project number.
- (2) The type of data to be destroyed.
- (3) The name of the Bona Fide Researcher.
- (4) Acknowledgement that all CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data received from the Research Center has been sanitized using one or more of the approved destruction methods listed in National Institute of Standards and Technology (NIST) Special Publication 800-88, Revision 1, Guidelines for Media Sanitation (December 2014), which is hereby incorporated by reference.
- (5) The date that all electronic files containing CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data were destroyed.
- (6) The name of the witness or witnesses of the data destruction.
- (7) The position title of the witness or witnesses of the data destruction.
- (8) Acknowledgement by the Bona Fide Researcher that failure to comply with this section may result in an audit of the project associated with the CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data.
- (9) A description of the items disposed of or destroyed.
- (10) An explanation of the method of destruction used.

(b) When a Bona Fide Researcher notifies the Research Center of the project's completion in accordance with section 964, subdivision (l), a Bona Fide Researcher may also simultaneously submit a written request to extend the time for destruction of CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data for purposes of verification and validation of the research project for one additional year. Ninety (90) days before an extension expires, the Research Center shall notify the Bona Fide Researcher to submit an additional request to extend the time for destruction of CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data. The Bona Fide Researcher shall complete the request before the extension expires, or if an additional extension is no longer needed, submit a certificate of data destruction in accordance with subdivision (a). A Bona Fide Researcher

may make up to seven requests for a total of seven years. The Research Center shall authorize the extension in writing.

(c) This section shall not apply if a Bona Fide Researcher submits a new Data Request Standard Application for a new project which relies on CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data already in possession of the Bona Fide Researcher, and the Research Center approves the new Data Request Standard Application.

(d) If a Bona Fide Researcher submits a renewal for a project pursuant to section 966, the project is deemed ongoing and this section does not apply until the project is concluded.

Note: Authority cited: Sections 14231.5 and 14240, Penal Code. Reference: Sections 14231.5 and 14240, Penal Code.

Article 5. Enforcement of Regulations

§ 968. Enforcement of Regulations by Department.

(a) To determine compliance with these regulations and ensure the security and protection of the CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data, the Department may, upon prior written notice and at mutually convenient times, inspect the facility, systems, and records, including emails and manuscript drafts related to the project identified in the Data Request Standard Application, of a Nonprofit Bona Fide Research Institution in which the CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data is secured, stored, destroyed or disposed.

(b) Within 10 business days following the inspection, the Research Center shall notify the Bona Fide Researcher of its findings. The Nonprofit Bona Fide Research Institution and Bona Fide Researcher shall remedy any violation and shall certify the same to the Research Center, in writing, within 30 calendar days of receiving the Research Center's findings. If the violation cannot be remedied within 30 calendar days, the Nonprofit Bona Fide Research Institution, and Bona Fide Researcher shall notify the Research Center and provide a remedial plan, including a reasonable alternative timeframe to resolve the violation.

(c) Any violation of these regulations by a Nonprofit Bona Fide Research Institution, Bona Fide Researcher, or Team Member may, at the discretion of the Research Center, result in

restricted access to CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data, closure of a current project and the destruction of CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data, and/or a denial of future requests for CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data. In exercising its discretion, the Research Center may consider the following, including but not limited to, the severity of the violation, whether PII was involved, any previous violations, and the violator's culpability.

(d) The fact that the Department has the right to inspect, conducts an inspection, or fails to inspect for compliance under subdivision (a) does not relieve the Nonprofit Bona Fide Research Institution and Bona Fide Researcher of their responsibility to comply with these regulations.

(e) A Nonprofit Bona Fide Research Institution or Bona Fide Researcher may appeal any findings under subdivision (b) or any enforcement actions taken under subdivision (c).

(1) Any appeal shall be filed with the Chief of the CJIS Division within 10 calendar days of receiving the Research Center's findings. The appeal shall be filed at datarequests@doj.ca.gov.

(2) The Chief of the CJIS Division may serve as the appeal officer, or may appoint another designee. At their sole discretion, the appeal officer reserves the right to collect additional facts or information to aid in the resolution of any appeal, and to set the timeline for any additional collection of facts.

(3) The appeal officer may request other entities, that may have relevant information or evidence that would assist in making the decision, that may be impacted by the decision, and/or that may be affiliated with the Department of Justice, Nonprofit Bona Fide Research Institution, Bona Fide Researcher, including but not limited to, the Research Center, to submit a written response to the appeal request, and has discretion to set the deadlines for any additional written responses.

(4) The decision of the appeal officer shall be based on all relevant statutory authority and these regulations, all facts and evidence, including but not limited to, the Research Center's findings and/or enforcement action taken, the appeal, any

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other written responses, any additional facts or information collected, the underlying Data Request Standard Application, and any other documents submitted by the Nonprofit Bona Fide Research Institution or Bona Fide Researcher related to the Data Request Standard Application. The decision of the appeal officer shall consider the relevant statutory authority, these regulations, and the balance of harms to the Nonprofit Bona Fide Research Institution or Bona Fide Researcher and the public.

(5) The appeal officer shall render a decision in writing within 30 calendar days of receiving the appeal.

(6) The decision of the appeal officer shall be final and there will be no further administrative appeal.

Note: Authority cited: Sections 14231.5 and 14240, Penal Code. Reference: Sections 14231.5 and 14240, Penal Code.